



GENERAL PERMIT FOR A SOLID WASTE MANAGEMENT FACILITY
NORTH DAKOTA DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WASTE MANAGEMENT
TELEPHONE: 701-328-5166 REV. ####

Pursuant to Chapter 23.1-08 of the North Dakota Century Code (NDCC), (Solid Waste Management and Land Protection Act), and Article 33.1-20 of the North Dakota Administrative Code (NDAC), (Solid Waste Management Rules), a general permit is hereby issued authorizing a person who obtains coverage under this general permit (Permittee) to construct and operate a solid waste management facility (site) for the purpose of land treatment of petroleum contaminated soil, subject to compliance with all conditions set forth in this general permit. The North Dakota Department of Environmental Quality (Department) encourages, where appropriate, land treatment of petroleum contaminated soil as an alternative to landfill disposal. Land treatment effectiveness is well documented, preserves soil resources, and saves limited landfill capacity. If any of the conditions of this general permit are not met or if the Department determines the Permittee is conducting an activity that may present a threat of harm to human health, safety, or the environment, the Permittee may be required to apply for and obtain an individual solid waste permit as specified in NDAC Section 33.1-20-02.1-03. In addition, the Permittee may be subject to enforcement, cleanup of the site to background conditions and civil penalties set forth in NDCC Section 23.1-08-23.

- A. General Permit Description:** Single-use land treatment site for petroleum-contaminated soil, statewide throughout North Dakota. Single-use means only one application of contaminated soil may be treated at the site following requirements of Condition F.8.
- B. General Permit Number:** 0###
- C. General Conditions:**
- C.1.** The Permittee of the site is subject to the Solid Waste Management and Land Protection Act (NDCC Chapter 23.1-08), the Solid Waste Management Rules (NDAC Article 33.1-20), all other North Dakota and federal laws, rules or regulations and orders now or hereafter effected by the Department, and to all conditions of this permit.
 - C.2.** Compliance with terms of this general permit does not constitute a defense to any order issued or any action brought under NDCC Chapter 23.1-08, NDAC Article 33.1-20, NDCC Chapter 23.1-04, NDAC Article 33.1-24, Sections 3013, 7003, or 3008(a) of Resource Conservation and Recovery Act (RCRA), Sections 106(a), 104 or 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et. seq.), NDCC Chapter 61-28 or any other law providing for protection of public health or the environment.
 - C.3.** Issuance of this general permit does not convey property rights of any sort or any exclusive privilege, nor does it authorize any injury to persons or property, any invasion of other private rights, or any infringement of state or local law or regulations. (NDAC 33.1-20-02.1-06)
 - C.4.** It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. (NDAC 33.1-20-02.1-04)
 - C.5.** This general permit is based on the premise that the information submitted by the

Permittee is accurate and that the site will be or has been constructed and operated as specified in the application for coverage under this general permit and all related documents. Any inaccuracies or misrepresentations found in the application for coverage may be grounds for the termination of coverage under this general permit and the Permittee must apply for and obtain an individual solid waste permit to continue to perform land treatment of petroleum contaminated soils. The Permittee must inform the Department in writing within thirty days of any deviation from, or changes in, the information in the application which would affect the Permittee's ability to comply with the applicable rules or general permit conditions. (NDAC 33.1-20-02.1-07)

- C.6.** The Permittee shall at all times properly operate and maintain the site and related appurtenances which are installed or used by the Permittee to achieve compliance with the conditions of this general permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance/quality control procedures. This provision requires the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this permit. (NDAC 33.1-20-02.1-04)
- C.7.** The Permittee shall give written notice to the Department of any planned physical alterations or additions to the permitted site. Any physical change in, or change in the method of the operation of, the land treatment site shall be considered to be construction, installation or establishment of a new operation. No construction, installation or establishment of a new operation shall be commenced unless the Permittee thereof shall file an amended application for coverage and receive authorization from the Department. (NDAC 33.1-20-02.1-03 and NDAC 33.1-20-02.1-04)
- a.** The Permittee shall give advance written notice to the Department of any planned changes in the permitted site or activity which may result in noncompliance with general permit requirements.
- b.** Whenever the Permittee becomes aware that the Permittee failed to submit any relevant facts in the general permit application or submitted incorrect information in the general permit application or in any report to the Department, the Permittee shall promptly submit such facts or information in writing.
- C.8.** The Permittee shall construct, operate, maintain and close the solid waste management units and the site according to the criteria of law and rule, conditions of this permit, and other reasonable precautions to prevent or minimize, if applicable, any environmental impacts including, but not limited to, fugitive dust emissions, objectionable odors, air toxics and gas emissions, spills, litter, and contamination of surface water and groundwater. (NDAC 33.1-20-02.1-04)
- C.9.** The Permittee shall furnish to the Department, within a reasonable time, any relevant information which the Department may request to determine whether cause exists for terminating coverage under this permit, or to determine compliance with this permit. The Permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit. (NDAC 33.1-20-04.1-04)
- C.10.** This general permit may be modified, suspended, revoked or reissued as specified in NDAC Section 33.1-20-02.1-03. The filing of a request for termination of coverage under

the permit, application for an individual permit, or the notification of planned changes or anticipated noncompliance on the part of the Permittee does not stay the applicability or enforceability of any condition of this general permit.

This general permit may be renewed as specified in NDAC Section 33.1-20-02.1-08. Review of any application for a general permit renewal shall consider improvements in the state of control and measurement technology, compliance with state rules and this permit, as well as changes in applicable regulations.

- C.11.** This general permit addresses only the environmental aspects and operational procedures of the site. It does not supersede local zoning authority or any other requirements of any political subdivision of the state. The Permittee must obtain any and all local zoning, conditional use permits, or meet any other county, township or municipal requirements prior to commencing construction and/or operation. The Permittee shall keep a record of any local zoning or other requirements necessary for operation of the site and make available to the Department if requested. (NDAC 33.1-20-02.1-06)
- C.12.** The Permittee shall design, close, maintain and operate the site in a manner to minimize the possibility of a fire, explosion or any unplanned sudden or nonsudden release of petroleum contaminated soil or its constituents to air, soil, groundwater or surface water which could threaten human health or the environment. (NDAC 33.1-20-04.1-02)
- C.13.** Any entity that controls the permit holder (Permittee) agrees to accept responsibility for any remedial measures, closure and postclosure care or penalties incurred by the Permittee. For purposes of this permit, "control" means ownership or control, directly, indirectly, or through the actions of one or more persons of the power to vote 25% or more of any class of voting shares of a permit holder, or the direct or indirect power to control in any manner the election of a majority of the directors of a permit holder, or to direct the management or policies of a permit holder, whether by individuals, corporations, partnerships, trusts, or other entities or organization of any type. Within thirty (30) days of authorization of coverage under this permit, if not previously provided with the application for coverage, or within thirty (30) days of the existence of any new controlling entity, the Permittee shall submit to the Department the name of the controlling entity, a statement signed by the controlling entity in which the controlling entity agrees to accept responsibility for any remedial measures, closure, and postclosure care or penalties incurred by the Permittee and a disclosure statement from the controlling entity containing the same information as required from permit applicants under NDCC Section 23.1-08-17. (NDCC 23.1-08-09(1))
- C.14.** All personnel involved in petroleum contaminated soil handling and in the site operation or monitoring must be provided a copy of this general permit and shall be instructed in specific procedures to ensure compliance with the permit, the site plans and the state rules as necessary to prevent accidents and environmental impacts. Documentation of training such as names, dates, description of instruction methods and copies of training sign-in sheets must be maintained by the Permittee and be made available to the Department if requested. (NDAC 33.1-20-04.1-02)
- C.15.** Except as modified by conditions of this general permit or future approvals from the Department, this site and related structures shall be designed, constructed, operated and closed in accordance with the application for coverage under this general permit, previous correspondence and documents contained in Departmental files pertaining to

this site, which are hereby incorporated by reference in this permit. Future submittals approved by the Department may supersede or supplement these items. (NDAC 33.1-20-02.1-04)

- C.16.** The Permittee shall allow the Department access to inspect the site and activities approved under this permit, at all reasonable times, to ensure compliance with the laws and rules of this state and this permit, including collection of samples or monitoring for any parameter. (NDCC 23.1-08-18)

D. Request for Authorization Conditions:

- D.1.** Duty to apply for site approval and coverage under this general permit.

To obtain authorization to operate a single-use petroleum-contaminated soil land treatment site under the terms and conditions of this general permit, an application for coverage must be submitted and approved prior to commencing any land treatment operations. The application for coverage must be submitted on forms provided by the Department.

- D.2.** Required contents of the application for coverage under this general permit.

The application shall include:

1. The name, address, and phone number of both the landowner and operator (Permittee) of the proposed petroleum-contaminated soil land treatment site;
2. The general location and size of the proposed site, including the legal description (quarter, section, township, range, and county);
3. A description of the petroleum contaminated soils to be accepted and managed at the proposed site, including the source and generator of the petroleum contaminated soils and chemical analyses showing compliance with Condition F.1. The applicant may submit an application without chemical analyses, but shall submit the information as soon as available from the laboratory performing the tests. The Department will not approve coverage under this general permit until chemical analyses are submitted and reviewed. Analyses must be performed by a Department-certified laboratory;
4. The estimated volume or tonnage of contaminated soil to be accepted and managed;
5. Maps, including a schematic diagram of the land treatment site showing water control structures, a soil survey map, and topographic map, with the land treatment site outlined, and a scale presented;
6. A description of the site and soil characteristics;
7. A general description of the operation, including the expected date(s) of soil application and a description of treatment procedures; and
8. Local zoning approval if required.

D.3. Fees.

Non-refundable application fees for a petroleum land treatment site are as follows:

Volume of Petroleum Contaminated Soil	Application Fee
0 – 500 cubic yards	No Fee
501 – 1000 cubic yards	\$500
Greater than 1000 cubic yards	\$1000

If a fee is required, it shall be included with an application for coverage or application for renewal of coverage. Checks must be written to the North Dakota Department of Environmental Quality or payment can be made electronically through the North Dakota Department of Environmental Quality website (if available).

D.4. Duration of Authorization.

Initial authorization to operate under this general permit shall be valid for up to three years from the date of issuance and may be renewed for a period of up to five years. The Department may amend, suspend, or revoke authorization if the Permittee is not in compliance with the conditions of this permit or other requirements of NDAC Chapter 33.1-20.

D.5. Renewal of Authorization.

If the soils in the site have not attained the criteria for closure under Condition F.6., the Permittee must submit a renewal application for coverage to the Department at least 60 calendar days before the general permit authorization expires, accompanied with payment for the renewal fee specified in Condition D.3.

D.6. Transfers.

Authorizations for coverage under this general permit are nontransferable. An application for coverage of a new operator must be submitted at least 60 calendar days before the change in operation occurs. The application for coverage must include the information required in Condition D.2. and the fee required in Condition D.3.

E. Location and Design Conditions:

E.1. Siting.

A petroleum-contaminated soil land treatment site shall be located such that the operation of the facility will not result in an adverse effect to human health, the environment, or nearby natural resources. When determining a facility location, the Permittee may not consider a site that is located:

1. Within 200 feet of any surface water body;
2. Within 200 feet of any perennial or ephemeral stream;

3. Within 500 feet of an occupied dwelling, unless the owner(s) provides written permission;
4. Within 100 feet of a property boundary, unless the adjacent property owner(s) provides written permission;
5. Within a delineated source water protection area;
6. Within 250 feet of any private well or 1,000 feet of any public well which supplies drinking water for human consumption;
7. Within the incorporated limits of any municipality;
8. Within 50 feet of a 100-year floodplain;
9. Where the depth to an aquifer is less than 20 feet;
10. Where the primary subsurface material is sand or gravel (as determined by the Unified Soil Classification System) within 20 feet of the ground surface;
11. On land that has an average slope greater than six percent; or
12. In an area that adversely affects wildlife, recreation, aesthetic value of an area, or any threatened or endangered species.

Occupied dwelling exception: Any occupied dwelling constructed less than 500 feet from a petroleum-contaminated soil land treatment site after an initial general permit authorization has been approved will not be grounds to prevent future authorization renewals under this general permit.

E.2. Access Control.

The Permittee shall control access to the petroleum-contaminated soil land treatment site using fences and gates, as needed. Livestock shall be excluded from the land treatment site.

E. 3. Surface Water Control.

The Permittee shall construct and maintain soil berms or containment structures around the petroleum-contaminated soil land treatment area(s) to divert run-on and contain runoff volume from a 25-year, 24-hour storm event, maintaining one foot of freeboard depth at all times. The berms or structures shall be adequately constructed to prevent leakage.

F. Operational Conditions:

F.1. Authorized and Unauthorized Wastes.

The Permittee may accept for treatment soils contaminated with gasoline, diesel fuel, fuel oil, American Petroleum Institute (API) light or medium gravity crude oil, natural gas condensate, or similar petroleum hydrocarbons. The Permittee shall obtain pre-

treatment laboratory results or other acceptable documentation demonstrating that contaminated soil accepted for land treatment contains only the petroleum hydrocarbons listed above. Analyses must be performed by a Department-certified laboratory.

The Permittee may not accept:

1. Soils contaminated with API heavy gravity crude oil (less than API gravity 22.3), motor oil, transformer oil or other petroleum lubricants;
2. Soils contaminated with hazardous waste (as defined in NDAC Chapter 33.1-24-02);
3. Soil with electrical conductivity (EC) greater than six millimhos per centimeter or sodium adsorption ratio (SAR) greater than twelve; or
4. Solid waste materials unsuitable for land application treatment.

F.2. Routine Inspections Required.

The Permittee shall inspect all loads of petroleum-contaminated soil to ensure that foreign objects such as metal, plastic, and other unauthorized wastes are not delivered to the land treatment area. Unauthorized wastes present in the contaminated soil must be collected and disposed of properly within seven days after the initial application of the soil. During routine inspections, the Permittee shall also evaluate storm water management berms and make any repairs necessary to prevent run-on and runoff.

F.3. Stockpiling Limitations.

Stockpiling of petroleum-contaminated soil shall not be conducted unless ground or weather conditions prevent spreading of the soil. The Permittee shall ensure that any contaminated soil stockpiled on-site is placed inside the bermed area.

F.4. Spreading Requirements.

Petroleum-contaminated soil shall be spread as soon as physically possible within the bermed land treatment area. The Permittee shall spread the soil no greater than four inches in depth (approximately 535 cubic yards per acre). If sufficient land area is not available to spread the soil at a depth of four inches, the Permittee may request approval from the Department to spread at a maximum depth of six inches (approximately 800 cubic yards per acre).

F.5. Petroleum-Contaminated Water Acceptance.

Petroleum-contaminated water from the same source as the petroleum-contaminated soil, that does not contain any free phase product, may be accepted for land application within the bermed land treatment area. The contaminated water shall be uniformly land applied at a rate of one-quarter inch (approximately 6,500 gallons) or less per acre. The application of petroleum-contaminated water is limited to one time, within two weeks of initial spreading of the petroleum contaminated soil. Stormwater runoff water that has accumulated within the bermed land treatment area may be uniformly land applied at a rate of one-quarter inch (approximately 6,500 gallons) or less per acre per week. The

application of petroleum-contaminated water or accumulated stormwater runoff water during November through March is not allowed.

F.6. Treatment / Aeration and Post-Treatment Standards.

The Permittee shall treat the petroleum-contaminated soil within the first 30 days following the application and approximately monthly from April through October, depending on soil moisture conditions. The treatment shall include aeration using tilling or disking techniques and may include application of nutrients and irrigation water. The Permittee shall treat petroleum-contaminated soil until it meets a post-treatment standard of 10 parts per million (ppm) or less Gasoline Range Organics (GRO) and 100 ppm or less Diesel Range Organics (DRO).

F.7. Sampling and Testing.

The Permittee shall periodically monitor the site to assess treatment progress. At a minimum, the Permittee shall collect one composite sample per acre in the Fall of each year. For post-treatment final closure testing, the Permittee shall collect a minimum of one composite sample per acre. Each composite sample must consist of a minimum of four representative samples taken from each acre. Analyses must be performed by a Department-certified laboratory. The collection, packaging, storage, and preservation of soil samples shall be conducted according to directions provided by the laboratory. Laboratory soil analysis must be conducted for both gasoline and diesel range organics by EPA method SW 8015 or other comparable method.

F.8. Land Application Frequency.

This general permit is for a single-use land treatment site – only one application of contaminated soil may be treated at the site following the spreading requirements of Condition F.4. The site may not be requested for subsequent land treatment of petroleum-contaminated soils until at least five years after the site has been approved for final closure by the Department.

F.9. Removal of Treated Soil.

The Permittee shall not remove any soil from the site until soil analysis demonstrating that the soil meets the post-treatment standards in Condition F.6. The removal and re-use of treated soils, either as backfill at the spill location or by spreading soils in treatment area, must have written Department approval.

F.10. Emergency Procedures.

The Permittee must notify the Department, within one business day, of any emergency situation that arises at a petroleum-contaminated soil land treatment site, including rain events that cause less than one foot of freeboard in any containment berm. The Permittee must inform the Department of its plan to remedy the emergency situation and prevent its reoccurrence.

G. Recordkeeping and Reporting Conditions:

G.1. Required Records.

The Permittee shall maintain all records required by this general permit and shall make records available to the Department upon request. At a minimum, the records shall include:

1. The amount, sources, types, and dates for contaminated soils received;
2. Documentation of the required routine site inspections;
3. Documentation of unauthorized waste found on-site, and the steps taken in response;
4. Records of any emergency conditions at the site;
5. Documentation of periodic monitoring and laboratory analytical reports;
6. Documentation of complaints received by the Department or the Permittee and responses to complaints; and
7. Copies of the current general permit, application for coverage under this general permit, Department authorization to operate, and any other permits or licenses required by state, local, or federal laws, rules, and regulations.

G.2. Maintenance of Records.

The Permittee shall maintain all required records for a period of three years following final closure of the land treatment site.

G. 3. Annual Reporting.

The Permittee shall submit to the Department, by March 1st of each year, an annual report for the previous year's petroleum-contaminated soil land treatment site activities. The report shall be submitted on a form provided by the Department and shall include the following information for the prior year:

1. The origin of soil received at the site;
2. The type of petroleum contamination in the soil;
3. The date soil was received;
4. The quantity of soil;
5. The date soil was spread;
6. The dates soil was treated;
7. Documentation of any amendments to the soil;
8. Results of periodic and annual soil analysis data;

9. A diagram generally identifying where soil samples were collected; and
10. A summary of any complaints or emergency events and the response by the Permittee.

An annual report is not required after the final closure of the site is approved by the Department.

H. Closure Conditions:

H.1. Request for Closure.

When the Permittee has conducted soil analyses to verify that all soil at the site meets the post-treatment standards in Condition F.6. the Permittee shall submit a Request for Closure to the Department. The request must include the same information as the Annual Report required in Condition G.3.

H.2. Startup of Closure Activities.

Closure activities shall not begin until the Request for Closure has been approved by the Department.

H.3. Final Closure Requirements.

The final closure activities for the petroleum-contaminated soil land treatment site shall include:

1. Removal of berms and water control structures and incorporating contours of the land treatment area(s) into the contours of the surrounding area;
2. Grading to prevent ponding of water;
3. Seeding and revegetating the entire site back to original vegetation conditions unless the site will be planted with a crop for harvest; and
4. The only food chain crop that may be produced on the closed land treatment area for two years following final closure is animal feed.

H.4. Completion of Final Closure.

The Permittee shall complete all closure activities for the entire petroleum-contaminated soil land treatment site within 180 days of documenting that all soil meets the post-treatment standards specified in Condition F.6. and receiving closure approval from the Department. The Department may inspect the final closure and require additional closure work if closure has not been satisfactorily performed.

H.5. Certification of Closure.

Upon completion of closure of the petroleum-contaminated soil land treatment site, the Permittee shall provide the Department with a certification confirming that the site has

been closed in accordance with the H. conditions of this general permit and that the closure is acceptable to the landowner. The certification must be signed by the Permittee and by the landowner. Closure is not final until written approval is received from the Department.

I. Financial Assurance Condition:

- I.1.** The Department will not typically require financial assurance for a site authorized under this general permit as long as the Permittee complies with the environmental laws and rules of the state and the conditions of this general permit. However, the Department reserves the right to require financial assurance if it determines violations have occurred or are likely to occur at the site subject to coverage under this general permit or at any petroleum-contaminated soil land treatment site previously operated by the Permittee, or if unique circumstances dictate the need for financial assurance. If required, financial assurance shall comply with NDAC Chapter 33.1-20-14 and shall include funds sufficient to remove all waste from the site, transport and dispose of the waste at a permitted solid waste disposal facility, and complete closure in compliance with the H. conditions of this permit.

Should questions or issues arise, the Permittee shall contact the North Dakota Department of Environmental Quality at 701-328-5166.

This general permit is effective as of _____, 2022 and shall remain in effect until _____, 2027, unless modified, superseded, or revoked under NDAC Section 33.1-20-02.1-07 or continued in accordance with NDAC Section 33.1-20-02.1-08.

Charles R. Hyatt, Director
Division of Waste Management

Date